**RESOLUTION NO. _____**

**A RESOLUTION OF THE CITY COUNCIL APPROVING GENERAL PLAN AMENDMENT NO. GP14-003, ZONING AMENDMENT NO. ZA14-0010, PLANNED UNIT DEVELOPMENT PERMIT NO. PD14-0001, SITE DEVELOPMENT PERMIT NO. SD14-0013, ENVIRONMENTAL ASSESMENT NO. EX14-0001 AND MAJOR VESTING TENTATIVE MAP NO. TM14-0001, TO CHANGE THE GENERAL PLAN LAND USE DESIGNATION FROM INDUSTRIAL PARK (MP) TO MULTIFAMILY RESIDENTIAL (R3) FOR THE DEVELOPMENT OF A 144 UNIT TOWNHOUSE SUBDIVISION ON 9.45 ACRES LOCATED AT 1210 CALIFORNIA CIRCLE (APN: 022-37-017)**

**WHEREAS**, on August 18, 2014, an application was submitted by Erich Stiger, iStar Financial ("Applicant"), One Sansome Street, 30th Floor, San Francisco, CA 94104, for a development proposal to allow a General Plan and Zoning Amendment to change the land use designation from Industrial Park (MP) to Multifamily High Density (R3) for a 144 unit townhouse residential subdivision on a 9.45 acre site with associated site improvements at 1210 California Circle ("Project"). The property is located within Industrial Park (MP) Zoning District (APN: 022-37-017); and

**WHEREAS,** on September 10, 2014, the Applicant conducted a community outreach meeting to discuss the proposed Project; and

**WHEREAS**, the Planning Division completed an environmental assessment for the Project in accordance with the California Environmental Quality Act (CEQA), and prepared a Mitigated Negative Declaration for the Project. The Mitigated Negative Declaration was circulated for public review between October 1, 2014 and October 21, 2014; and

**WHEREAS**, on October 22, 2014, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties and recommended the City Council deny the general plan and zoning amendment to change the land use designation from Industrial Park (MP) to Multifamily High Density (R3); and

**NOW THEREFORE**, the City Council of the City of Milpitas hereby finds, determines and resolves as follows:

**Section 1:** The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

**Section 2:** The City of Milpitas is the lead agency on the Project, and the City Council is the decision-making body for the proposed Project. The City Council has reviewed, considered and exercised its independent judgment on the Initial Study/Mitigated Negative Declaration (MND) and the Mitigation and Reporting Program for the Project, and by this reference, incorporated into this Resolution as if fully set forth herein. Based on all of the foregoing and information and documents in the administrative record, the City Council does hereby make the following findings: (i) the Project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code; (ii) it has independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project; (iii) the Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and consistent with State and local guidelines implementing CEQA; and (iv) the Initial

Study/Mitigated Negative Declaration represents the independent judgment and analysis of the City as lead agency for the Project. The City Council designates the Director of Planning and Neighborhood Services at the Milpitas City Hall at 455 East Calaveras Boulevard, Milpitas, CA 95035, as the custodian of documents and records of proceedings on which this decision is based.

The City Council does hereby approve and adopt the Mitigation Monitoring and Reporting Program prepared for the Project. The Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are (i) on file at Milpitas City Hall at 455 East Calaveras Boulevard, Milpitas, CA 95035; and (ii) available for inspection by an interested person. All applicable mitigation measures identified in the Mitigation Monitoring and Reporting Program on file with the City of Milpitas Planning Department will apply to the Project, reducing the project impacts to less than significant, as further set forth in **Exhibit 1.b**.

**Section 3: Milpitas General Plan Conformance Findings – Milpitas Municipal Code Section XI-10-57.02 -** *The City Council makes the following findings based on the evidence in the public record in support of General Plan Amendment:*

1. *The proposed amendment is internally consistent with those portions of the General Plan which are not being amended.*

As discussed in detail in the accompanying Planning Commission staff report, the General Plan Amendment to designate the site Multi-Family is consistent with the past action of the City Council at this general location and will provide a connective residential community.

The project meets the following General Plan land use guiding and implementing principles:

- 2.a-G-3 – Provide for a variety of housing types and densities that meet the needs of individuals and families.
- 2.a-G-5 – A park-like setting will be created by a series of local parks, school sites, trails, and a greenway system laced throughout all living areas.
- 2.a-G-7 – When considering development proposals, seek "community benefit", such as upgrading infrastructure facilities, constructing new infrastructure facilities and funding contributions to programs.
- 2.a-G-9 – The city should make land use decisions that improve the City's fiscal condition.

The proposed project is consistent with several General Plan guiding policies. The proposed project includes 144 new townhouse style housing units that will provide new homeownership opportunities in the community. The proposed project also provides a small on-site public park open space area that would be utilized by the project residents. The proposed landscape plan includes perimeter planting and landscape improvements and pedestrian walkway along the northern and eastern project boundary. These proposed pedestrian walkways will include a public access easement. The applicant submitted a fiscal impact analysis of three scenarios; the conceptual residential development; the existing conditions of the vacant industrial building; and a hypothetical occupied industrial use of the project site. The analysis concludes that the proposed residential development yields higher net revenue to the general fund when compared to the two other low value scenarios.

2. *The proposed amendment will not adversely affect the public health, safety and welfare*

Changing the land use designation for the Project site from Industrial Park (MP) to Multifamily Residential (R3) will not adversely affect the public health, safety and welfare. The residential

designation is consistent with the residential development to the east of the project site (across the creek) as well as consistent with the recently approved residential development to the north of the project site along California Circle.

The proposed multi-family residential development is designed in a series of three stories buildings ranging in size from 3-unit to 8-unit building types with the majority being 6-unit buildings. The front elevation of the buildings includes stucco finish and stone veneer along the first level with front entry stoops and porches. There are some second story balconies with metal railing and standing metal seam accent roof and occasional use of metal projecting awning over windows elements. The buildings include a mix of cement plaster finish and cementitious (simulated wood) siding. The rear elevations include garage doors with windows, a mix of stone veneer, cementitious horizontal siding and cement plaster finish on the first floor. Decorative trellis features are included above the garage doors. A flat concrete tile roof shingles is proposed for all buildings. The buildings are proposed at a height of approximately 38'-2" from finished grade. As conditioned, the residential use will not negatively impact adjacent commercial uses and the circulation network is sufficient for the new use.

**Section 4: Major Tentative Map Findings – Milpitas Municipal Code Section XI-1-20.01 -** *The City Council makes the following finding based on the evidence in the public record in support of the Major Tentative Map:*

1. *The tentative subdivision map is consistent with the Milpitas General Plan.*

As discussed in the accompanying Planning Commission's staff report and above, the proposed tentative subdivision map complies with the R-3 Zoning District and to the development standards of the General Plan. The proposed project type, density and size are all consistent with the Multiple Family Residential General Plan Land Use Designation.

**Summary of Development Standards**

| | Standard | Proposed | Complies? |
|---|---|---|---|
| Setbacks (Minimum) | | | |
| Front | 20 feet | 24 feet along California Circle property frontage | Yes |
| Street Side | 10 feet | 15 provided along northern property line | Yes |
| Interior | 12 feet | 24 feet is provided along California Circle | Yes |
| Rear | 40feet | 40 feet is provided to top of creek bank (95 is provide to property line) | Yes |
| Building Height (maximum | 35 feet | 38 feet proposed (request 42 feet height limit) | Yes - with approval of PUD |
| Density | 12-20 units per acre | 15.2 units per acre | Yes |

As indicated above, the project is consistent with the development standards required for the R-3 Zoning District, except for building height. The project complies with the setback requirements, parking

requirements and density. With the issuance of the Planned Unit Development Permit, the project will comply with the building height.

**Section 5: Planned Unit Development Permit Findings – Milpitas Municipal Code Section XI-10-54.07 -** *The City Council makes the following findings based on the evidence in the public record in support of the Planned Unit Development Permit:*

1. *Development of the site under the provisions of the Planned Unit Development will result in public benefit not otherwise attainable by application of the regulations of general zoning districts.*

The applicant will be required to contribute $250,000 as a public benefit for A City of Milpitas Community gateway Signage Program and up to two new gateway signs in the City. In addition, the California Circle street frontage will be improved with new decorative crosswalk paving and two pedestrian walkways are proposed within the development for public access.

2. *The proposed Planned Unit Development is consistent with the Milpitas General Plan*

As discussed in the accompanying Planning Commission staff report and above, the proposed development is consistent with the Multi-Family residential designation density and use and is consistent with other provisions of the General Plan.

3. *The proposed development will be in harmony with the character of the surrounding neighborhood and will have no adverse effects upon the adjacent or surrounding development, such as shadows, view obstruction or loss of privacy that are not mitigated to acceptable levels.*

As discussed above, the proposed residential development is consistent with the residential uses to the north and east of the site and will not have a negative impact on adjacent properties. The residential neighborhood to the east is located across the creek and will not experience shadows or loss of views from the proposed development. The existing commercial developments across California Circle will also not be negatively impacted by the multi-family residential buildings.

**Section 6: Site Development Permit Findings – Milpitas Municipal Code Section XI-10-57.01(F) -** *The City Council makes the following findings based on the evidence in the public record in support of the Site Development Permit:*

1. *The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.*

As discussed in the accompanying Planning Commission's staff report and above, the project is consistent with this finding as it complies with the development standards contained within the R-3 District and the municipal code. The project is designed with a circulation network that connects with existing street and to future developments. As conditioned, the proposed buildings contain a variety of finish materials and articulations and with further refinement will be of high quality design on all sides. The perimeter landscaping and street improvements will provide a benefit to the neighborhood and pedestrian environment.

2. *The project is consistent with the Milpitas Zoning Ordinance.*

As discussed in the accompanying Planning Commission's staff report and above, with the approval of the Planned Unit Development Permit and adoption of the Zoning Amendment, the project will comply with the Milpitas Zoning Ordinance. The project is consistent the R-3, Multi-Family Residential zoning requirements and other code requirements.

*3. The project is consistent with the Milpitas General Plan.*

With the approval of the requested General Plan Amendment to Multi-Family residential designation, the project will be consistent with the Milpitas General Plan. As discussed in the accompanying Planning Commission staff report and above, the project is consistent with the General Plan policy to provide for a variety of housing types and densities that meet the needs of individuals and families. The project includes a mix of two and three bedroom units in a multi-family townhouse building format. The project also includes on-site private park open space areas and pedestrian walkways along the northern and eastern project boundary for enhanced pedestrian circulation around the site and designed for future connection to the BAPS property to the north, consistent with the General Plan policy to create a park-like setting and a greenway system laced throughout all living areas. Based on the applicant's fiscal analysis, the project will provide an increase in annual net revenues as compared to the existing use that will contribute to the City's financial position.

**Section 7:** The City Council of the City of Milpitas hereby approves General Plan Amendment No. GP14-003, Planned Unit Development Permit No. PD14-0001, Site Development Permit No. 14-0013, Environmental Assessment No. EA14-001 and Major Tentative Map No. TM14-0001 based on the above Findings and subject to the Conditions of Approval and attachments hereto.

**Section 8:** All findings made in Ordinance No. 38.318 relating to Zoning Amendment No. ZA14-0010 are hereby incorporated fully herein by this reference. This Resolution shall become effective on the same date and time as Ordinance No. 38.818. In the event Ordinance 38.818 does not become effective, this Resolution shall have no legal force or effect.

PASSED AND ADOPTED this _____ day of _____, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

**EXHIBIT 1**

**CONDITIONS OF APPROVAL**
**iStar**
**General Plan Amendment No. GP14-003, Zoning Amendment No. ZA14-0010, Planned Unit Development Permit No. PD14-0001, Site Development Permit No. SD14-0013, Environmental Assessment No. EX14-0001 And Major Vesting Tentative Map No. TM14-0001**

**General Conditions**

1. General Compliance. The applicant and owner, including all successors in interest (collectively "Permittee") shall comply with each and every condition set forth in this Permit. General Plan Amendment No. GP14-003, Zoning Amendment No. ZA14-0010, Planned Unit Development Permit No. PD14-0001, Site Development Permit No. SD14-0010 and Major Vesting Tentative Map No. TM14-0001 (collectively "Permit") shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed and this Resolution has been recorded by the Permittee with the Santa Clara County's Recorder Office.

2. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which Ordinance No. 38.818 becomes effective.

3. Acceptance of Permit. Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following:

    a. Acceptance of this Permit by Permittee; and
    b. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all of the terms, obligations, and conditions of this Permit.

4. Permit Expiration. Pursuant to Section XI-10-64-06 of the Milpitas Zoning Code, this Permit shall become null and void if the activity permitted by this Permit is not commenced within two (2) years from the date of approval, or for a project submitted with a tentative map, within the time limits of the approved tentative map. Pursuant to Section XI-10-64.06(B) of the Milpitas Zoning Code, an activity permitted by this Permit shall be deemed to have commenced when the project:

    a. Completes a foundation associated with the project; or
    b. Dedicates any land or easement as required from the zoning action; or
    c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.

5. Time Extension. Pursuant to Section XI-10-64.07 of the Milpitas Zoning Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. **(P)**

6. Project Job Account. If Permittee's project job account is at any time delinquent or below the required deposit amount, City will not continue to review or process the application until Permittee's private job account is paid in full and the required deposit has been made. Additionally, prior to the issuance of any building permit or occupancy permit, as applicable, Permittee shall pay in full the project account balance and establish a remaining balance of at least twenty-five percent (25%) of the required initial deposit.

7. Notice. Pursuant to California Government Code Section 66020, any protest filed in court relating to the imposition of fees, dedication, reservations, or other exactions to be imposed on the development project shall be filed within ninety (90) days after the date of the adoption of this Resolution. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the Permittee may file a protest has begun under California Government Code Section 66020(d)(1).

8. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. Permittee shall pay all required fees and charges to City at the rate in effect at time of building permit issuance, or, the rate in effect when the fees and charges are due and paid in full to City. There is no vesting of any fees or charges with the adoption of this Resolution.

9. Conditions. Each and every condition set forth in this Exhibit shall apply to the project and continue to apply to the project so long as the Permittee is operating the project under the permits and approvals in this Resolution.

10. Compliance with Laws. The construction, use, and all related activity authorized under this Permit shall comply with all applicable local, state, and federal laws, rules, regulations, guidelines, requirements, and policies. **(CA/P)**

11. Previous Approvals. Permittee shall abide and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit.

12. Indemnification. To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to (i) City's approval of the project, including but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use, or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition.

13. Revocation, Suspension, Modification. This Permit may be suspended, revoked, or modified in accordance with Section XI-10-63.06 of the Milpitas Zoning Code.

14. Severability. If any term, provision, or condition of this Permit is held to be illegal or unenforceable by the Court, such term, provision, or condition shall be severed and shall be inoperative, and the remainder of this Permit shall remain operative, binding, and fully enforceable.

15. Permittee shall develop the approved project in conformance with the plans reviewed by the City Council on November 18, 2014, in accordance with these Conditions of Approval. Any deviation from the approved site plan, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, Permittee shall be required to apply for review and obtain approval of the Planning Commission or City Council, as applicable, in accordance with the Milpitas Zoning Code. **(P)**

16. Response to Conditions of Approval: Permittee shall provide a written response to comments upon submittal for building permit application. The responses should clearly indicate how each condition of approval has been addressed in the plans and shall note the appropriate plan sheet. **(P)**

17. Public Benefit. Prior to any building permit application submittal, Permittee shall pay City the amount of Two Hundred and Fifty Thousand Dollars ($250,000) for a Professional City of Milpitas Community Gateway Signage Program, and design and construction of up to two gateway signs within the City limits (See proposed Scope in **Exhibit 1.c**). **(P)**

18. The project/development shall comply with the requirements of the Fire Department and the CA Fire Code. Changes to the site plan and/or internal circulation shall be reviewed and approved by the Fire Department.

Site Development Permit

19. Entry Pavement and Internal Crosswalk Treatment. Prior to issuance of any building permit, Permittee shall complete the following:
    a. Internal crosswalks and the project driveway entry shall utilize decorative paving such as but not limited to stamped colored concrete, textured paving stones, or other material to the approval of the Planning Director. (P)
    a. The pedestrian walkway along the northern property line shall include a decorative landscape gateway treatment to the satisfaction of the Planning Director.
    b. Widen the mid-block crosswalk on Street "A" to eliminate the jog in the crosswalk.
    c. Pedestrian walks shall extend to drive aisles between buildings 11 and 12 and between buildings 17 and 18. The pedestrian path extension may require modification or elimination of one guest parking space.
    d. Internal crosswalks along Street "B: shall be aligned perpendicular to the street and not at an angle across the street.

20. Fencing and Walls. Prior to issuance of any building permit, Permittee shall conduct further acoustical analysis consistent with the MND findings to determine where solid barriers are required and where open metal picket fencing may be acceptable. Prior to issuance of any building permit, Permittee shall submit for approval from the Planning Director a plan indicating wall or fence design and heights for each property. The four foot tall safety railing fence along the eastern side of the buildings shall be relocated to the eastern side of the landscape strip adjacent to the pedestrian walkway along Penitencia Creek. Perimeter fencing shall match the materials and design of the California Circle Waterstone project fencing to the north.

21. Trash Enclosure. Prior to issuance of any building permit, Permittee shall submit details and elevations of proposed trash enclosure. The proposed trash enclosure shall be constructed of CMU masonry walls finished to match the stucco finish on the adjacent buildings and include durable metal

decorative gates, trellis, and/or other architectural detailing subject to the approval of the Planning Director. (P)

22. Lighting Plan. Prior to issuance of any building permit, Permittee shall submit a lighting and iso-illumination plan that shall demonstrate 1) safe and adequate lighting of the project site and 2) lighting is contained and does not spill over onto adjacent properties or create unwanted glare. Permittee shall provide detail, elevations and manufacturer's specifications on proposed light fixture for, light standards, and wall sconces subject to Planning Director approval. Proposed light fixtures shall be high quality and complement the architectural style of each townhome. Light fixtures over garage doors shall be of high-quality, residential scale, architectural design, subject to final approval by the Planning Director. Particular attention shall be paid to the pedestrian paseo along the northern property line and the creek trail for evening security and safety. (P)

23. Architectural Elevations. Prior to issuance of any building permit, Permittee shall modify the building elevations to reflect high quality material, finishes, and articulation. Components of the buildings shall be modified to be consistent with the design requirements contained in the attached Exhibit 1.a. Such revisions to the building architecture are subject to Planning Director review and approval and includes the following:

    a. The side elevations shall be revised to provide façade enhancements equal to the entry facades including unit entries, façade articulation, materials changes, color changes, architectural detail, landscaping and (where possible) wrap-around porches and balconies.
    b. Modifications shall be subject to the following design principles:
        i. Provide individualized units with varied materials and form articulation assembled into a unified building whole;
        ii. Provide distinctive and varied unit entries;
        iii. Provide varied roof eave lines;
        iv. Provide abundant projecting architectural details; and
        v. Provide variety in façade treatment for adjacent buildings (side by side and across auto courts and pedestrian areas);
    c. The stucco shall be a medium-dash finish on the body of the building with smooth stucco finish on all window, door, and other trims. The Owner or Designee shall provide a sample mock-up of the stucco finish for the body and trim prior its application on the first building for Planning Director approval.
    d. Provide additional architectural elements and detailing on all street facing and end unit elevations subject to Planning Director review and approval.
    e. Prior to issuance of any building permit, color selection for all buildings shall be submitted to the Planning Director for review and approval. (P)
    f. All roof eaves shall have a minimum 12-inch projection and provide substantial exposed beams/rafter tails, corbels or brackets.

    *Windows and Doors*

    g. All windows shall be designed to provide a range of 2 to 4-inch recess on front elevations and exposed side or rear elevations.
    h. All window styles and window muntin patterns shall reinforce the architectural style of the home.
    i. All windows shall include decorative headers or lintels above the window opening and/or projecting bottom sill that complements the architectural style and design of the home.

j. All window trims shall measure 4-inches wide. Foam trims that do not simulate a wood like appearance shall be of smooth stucco. (P)
k. All awnings shall reflect the architectural style and character of the building on which they are located. Awnings shall complement the scale of proportion of window openings and are permanently attached with decorative ties or brackets to the building façade.
l. All decorative shutters shall be visually functional and capable of fully covering window openings they frame.
m. All pedestrian and garage doors shall be decorative, distinctive, and provide variation between each unit. All pedestrian and garage doors should reinforce the architectural style of the home and include ornamentation such as but not limited to recessed or grooved panels, windows, arched tops, metal studs and decorative hardware.

*Entries, Porches and Decks*

n. All porches shall have a minimum width of 6-feet. All above ground balconies and roof decks shall provide a minimum of 40 square feet.
o. Elevated stoops at porches shall be designed to complement the architectural style of the home. Post, handrails, and treads shall utilize similar materials and styles as the main structure.
p. The paseos shall utilize decorative paseo pavers to link courtyard yards and patios.

*Garages*

q. All garage doors shall provide a minimum recess of 6-inches.
r. All garage doors style should reinforce the architectural style of the townhome and provide variation and utilized decorative paneling, windows, hardware and/or other embellishments. No vents shall be allowed on garage doors.
s. All garage doors shall include clear glass windows to allow for visual inspection to ensure garages are not used solely for storage as they are intended for parking of cars.

24. Retaining Walls. Prior to issuance of any building permit, Permittee shall demonstrate the following:
    a. All retaining walls within the project shall be decorative in appearance and consist of stone materials with pre-cast concrete cap in a finish material to match the California Circle Waterstone project retaining wall design and finish material subject to the review and approval of the Planning Director.

25. CC&Rs. Permittee shall include disclosure statements informing future residents regarding noise due to the proximity of I-880, potential noise, truck traffic as well as the use and/or storage of hazardous material associated with normal operations of adjacent industrial and commercial business activity and development; potential light and glare from an approved 60-foot illuminated freeway sign, and proximity to odor sources such as the Newby Island Landfill and Composting facility as well as San Jose Sewage Treatment Plant. Furthermore, CC&R shall restrict the use of gasoline powered landscape equipment (blowers and string trimmers). The CC&Rs shall also provide notification of the SCVW planned project to construct elevated levee improvements including flood walls and banks.

26. Landscaping. Prior to issuance of any building permit, the following modifications shall be incorporated in revised landscaping plans to the approval of the Planning Director: (P)
    a. Structural (amended) soil shall be used for all landscaping in the public right-of-way.

b. All existing ground transformers and utility vaults located along a public street frontage shall be located underground or relocated to back of sidewalk. Other utilities and mechanical equipment shall be located under-ground or screen from all views. (P)
c. Permittee shall include enhanced landscaping between buildings 23 and the trash enclosure.
d. Permittee shall redesign the landscape plan to include a continuous tree pattern along the property frontage at California Circle (no breaks in the tree line).
e. The landscape plan shall be revised to include a minimum of three evenly spaced benches along the six foot wide landscape strip along Penitencia Creek.
f. The landscape plan shall be revised to include large shade trees along the trail frontage (along the Penitencia Creek property line).
g. The final landscape tree selection and placement shall be to the satisfaction of the Planning Director.
h. All site amenities referenced on sheet L1.3 shall be to the final satisfaction of the Planning Director.
i. Eliminate the last guest parking space along drive aisle 6 to expand the landscape area adjacent to the creek trail. A landscape planting area shall also be added along the edge between the pedestrian walk and the end of the drive isle.

27. Climate Action Plan Compliance. Prior to issuance of any building permit, Permittee shall demonstrate that all residential units will provide the following:

    a. Pre-wired for solar photovoltaic systems.
    b. Provide 240 Volt outlets for electric cars in garages.
    c. Provide exterior electrical outlet for gardening equipment.

28. Easement. Proposed development shall dedicate a 16' wide public service utility sidewalk easement area along the entire property frontage at California Circle. Permittee shall remove and replace all sidewalk and landscape to provide four foot wide landscape strip (at back of curb), eight foot wide sidewalk and four foot wide landscape strip along entire property frontage.

29. Utility Relocation. All above grade utility and water vaults or equipment shall be relocated in the four foot wide landscape strip at back of sidewalk and shall not encroach into the eight foot wide sidewalk and shall not cause the sidewalk to meander around the utility apparatus. This includes any above grade joint trench facilities. The utility cabinets may need to be located into the project landscaped areas and retaining walls may need to be modified accordingly.

30. Site Improvement. All proposed streets and utilities within the project site shall be private and Home Owners Association owned, operated, and maintained. All streets and utilities shall be designed per the City's applicable public streets and utilities standards. Rolled curbs may be permitted along the drive aisles for access to garage driveways. All other curbs shall be vertical.

31. Public Easements. Permittee shall dedicate on the final map necessary public service utility easements, street easements, public access easement (over private streets and walkways) and easements for water and sanitary sewer purposes.

32. Site Improvement. Prior to issuance of any building permit, Permittee must pay all applicable development fees, including but not limited to, connection fees (water, sewer and storm), plan check and inspection deposit, and 2.5% building permit automation fee. These fees are collected as part of the secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials.

33. Park Improvement. The cloth shade structure over the seating area in the larger private park shall be replaced with a permanent shade structure, and a cloth shade structure shall be installed over the seating area within the smaller private park to the satisfaction of the Planning Director.

34. Site Improvement. The proposed playground shall conform to the playground-related standards set forth by the American Society for Testing and Materials and the playground-related guidelines set forth by the United States Consumer Product Safety Commission.

35. Site Improvement. Prior to occupancy/final permit issuance for the playground area, Permittee shall have a playground safety inspector, certified by the National Playground Safety Institute, conduct an initial inspection for the purpose of aiding compliance with the playground safety requirements.

Planned Unit Development Permit

36. Planned Unit Development Standards.
    a. Roof materials shall be limited to concrete tile. (P)
    b. Building color and material changes shall be to the approval of the Planning Director. (P)
    c. All garage doors shall be roll-up doors only. (P)
    d. No garage conversions shall be allowed. Each unit shall include a deed restriction to prohibit garage conversions.(P)
    e. Decorative concrete street paving shall be maintained in perpetuity.
    f. All common areas shall be maintained in perpetuity by the Homeowner Association.
    g. Any modifications to the PUD development standards and special conditions will require an amendment to the Planned Unit Development Approval and require Planning Commission review and approval. (P)

Mitigation Measures

37. Mitigation Monitoring Program. Prior to issuance of any building permit, Permittee shall comply with the Project's Mitigation Measures outlined in the Initial Study/Mitigated Negative Declaration and as attached (Exhibit 1.b) and continue or cause to continue to comply with any applicable measures.

Tentative Map

38. Project Specific Conditions:

    b. Reciprocal Access: Prior to final map approval, Permittee shall execute a reciprocal access agreement across Street B to facilitate site access to both parcels when the adjacent property to north (BAPS site) redevelops. Permittee shall install signage along the end of Street "B" to indicate future roadway connection.

    c. Public Access: Prior to final map approval, Permittee shall dedicate a public service, utility, and sidewalk easement (PSUSE) along the pedestrian paseo along the northern property line and across the creek trail for public access and recreation.

    d. Public Improvements: Prior to final map approval, Permittee shall obtain design approval and bond for all necessary public improvements along California Circle, including but not limited to the following:

i. Removal and installation of new curb, gutter, sidewalk, street lights, landscaping, signage and striping, fire hydrants, and storm, water and sewer service installation/connection.
ii. Removal and replacement of all ADA ramps along entire property frontage, along both sides of street, to comply with the ADA requirements.
iii. Remove and replace all street lights along the property frontage with City standard LED cobra head lights.
iv. AC pavement base repairs, micro-surfacing, and pavement restriping the full width of California Circle frontage to the satisfaction of the City Engineer .
v. Enhance the pedestrian crosswalk at the intersection of California Circle and Fairview Way with decorative paving to the satisfaction of the City Engineer.
vi. Construct a new mid-block decorative crosswalk with raised pedestrian refuge island across California Circle at the pedestrian paseo along the north property line. The crosswalk shall include flashing warning beacons.

e. Sanitary Sewer Lining: Permittee shall install structure lining inside approximately 800 linear feet of the existing 42 inch diameter sanitary sewer pipeline in accordance with City requirements from the first manhole beyond the project boundary on all sides. The lining shall be Insituform Cast-in-place pipe or approved equal, to the satisfaction of the City Engineer. No fill or structures are allowed on top of the sewer easement. Permittee shall design adjacent building foundations to be self-supporting so City can repair the sanitary sewer pipeline in the future. Any damage to adjacent buildings or foundations resulting from maintenance, repair, or replacement activities on the 42 inch diameter pipe shall be solely borne by the Homeowners Association. No deep rooted plantings such as trees are allowed above or near the sewer pipe. No permanent buildings, walls, or fixtures such as street lights are allowed above the utility infrastructure such as sewer pipes. City will not replace enhanced paving after repairs. All restoration work needed as a result of sewer maintenance or improvement shall be the responsibility of the HOA.

f. Solid Waste Enclosure. Prior to occupancy for the 53rd dwelling unit, Permitee shall construct a new trash enclosure to accommodate the required self-contained compactors needed to serve this development. The proposed enclosures shall be designed per the Development Guidelines for Solid Waste Services and enclosure drains must discharge to sanitary sewer line. City review/approval is required prior to construction of the enclosure.

g. Utilities: Permittee shall comply the following:
i. Service to the park irrigation meter shown on sheet L1.0 shall be from the public water supply. A connection to the on-site domestic system is not allows.
ii. Eliminate or relocate the proposed retaining wall within the sanitary sewer easement shown on sheet TM04.
iii. The water meter and backflow preventer at the entrance to Street B shall be relocated to a location immediately behind the sidewalk.
iv. Permittee shall design utilities to meet CDPH clearance requirements as waivers will not be granted for new construction.

39. Building Permit Automation Fee: Prior to any building permit issuance, Permittee shall pay all applicable development fees, as determined by the City Engineer in accordance with the most current approved fee schedule adopted by the City Council, including but not limited to, connection fees (water, sewer and storm), Transit Area impact fee, plan check and inspection deposit, and 2.5% building permit automation fee as approved by City Council Resolution No. 7590. These fees will be a part of the secured subdivision improvement agreement. The agreement shall be secured for an

amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials.

40. Community Facilities District (CFD) Annexation: Prior to final map approval, Permittee shall submit an executed consent to annex the subject property into CFD 2005-1 and shall agree to pay the special taxes levied by CFD 2005-1 for the purpose of maintaining the public services. The petition to annex into the CFD shall be finalized concurrently with the final map recordation or prior to any building permit issuance, whichever occurs first. Permittee shall comply with all rules, regulations, policies, and practices established by State Law and by the City with respect to the CFD including, without limitation, the requirements for notice and disclosure to future owners and residents.

41. Final Map: Prior to issuance of any building permit, the final map shall be recorded. The final map submittal shall meet the following requirements:

    a. Provide a current title report with your final map submittal, not more than 90 days old.
    b. All final maps shall designate all common lots and easements as lettered lots or lettered easements.
    c. The final map shall clearly delineate the project property line and the County right of way line. County right of way and Project boundary should be contiguous.
    d. All final maps shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3.
    e. Permittee shall dedicate all necessary easements for public utilities, emergency vehicle access, solid waste collection, pedestrian corridors, sidewalks, trails, paths, and public access on the final map for acceptance by the City in compliance with the City's Engineering Guidelines and the approved Tentative Map.
    f. Prior to recordation of any final map, Permittee shall submit to the City a digital format of the approved final map (AutoCAD format).

42. Homeowners Association: Prior to final map approval, Permittee shall establish a Homeowners Association (HOA). The HOA shall be responsible for the maintenance of the landscaping, walls, buildings, private street lights, common area and private streets and shall have assessment power. The HOA shall manage the onsite water and sewer system and implement the Solid Waste Handling Plan. This information shall be clearly included in the Conditions, Covenants, and Restrictions (CC&R) and recorded documents. Prior to final map approval, the CC&R document shall be submitted for review and approval by the City Engineer. If the project becomes for-sale in the future, a Homeowners Association shall be created. The Membership of the HOA shall include all owners of the residential units.

43. Improvement Plans: Prior to final map approval, Permittee shall obtain design approval and bond for all necessary public improvements, including but not limited to the following:

    a. Removal and installation of new curb, gutter, and sidewalk, median modification or installation, signage and striping, street lights, street trees, fire hydrants, bus stop, and storm, water, and sewer service installation, unless completed by the County prior to project commencement.
    b. All improvements plans shall be prepared using Vertical Datum of 1988 (NAVD 88). The specific city benchmark used for the project shall be indicated on the cover sheet of each improvement plan set.

    Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and developer shall submit a digital format of the Record Drawings

(AutoCAD format is preferred) upon completion of improvements. Permittee shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. The public facilities such as water meters, RP backflow preventers, sewer clean outs, etc., shall be placed so access is maintained and kept clear of traffic.

44. Initial Acceptance: All improvements must be in accordance with the City of Milpitas standard drawing and specification, and shall be constructed to the City Engineer's satisfaction and accepted by the City prior to issuance of any final certificate of occupancy of any unit.

45. Utility Undergrounding: Permittee shall underground all existing wires and remove all related poles within the proposed development and along all street frontages. Prior to issuance of the first Certificate of Occupancy (temporary or final), Permittee shall underground all overhang utilities. All proposed utilities within the subdivision shall also be undergrounded. The improvement plans shall show all existing utilities within and bordering the proposed development, and clearly identify the existing PG&E wire towers and state wire voltage.

46. Joint Trench Relocation: The joint trench and all joint trench structures shall be relocated in the field, if necessary, to accommodate the approved street layout to the satisfaction of the City Engineer and the Planning Director. This may include but is not limited to conflicts with the proposed public sidewalk, public trees, and public streetlights.

47. Encroachment Permit: Prior to any work within the public right of way or City easement, Permittee shall obtain an encroachment permit from City of Milpitas Engineering Division. Prior to installing offsite improvements, Permittee shall obtain an encroachment permit from the City of Milpitas and all necessary encroachment permits from other affected agencies and private parties, including but not limited to, Pacific Gas and Electric, SBC, Comcast, Santa Clara Valley Water District, Santa Clara County road and Airport Department, and Santa Clara Valley Transportation Agency (VTA). Copies of any approvals or permits shall be submitted to the City of Milpitas Engineering Division as a part of the encroachment permit review.

48. Agency Approval: It is the responsibility of Permittee to obtain any necessary encroachment permits from affected agencies and private parties, including but not limited to, Pacific Gas and Electric, SBC, Comcast, Santa Clara Valley Water District and Caltrans. Copies of any approvals or permits must be submitted to the City of Milpitas Engineering Division.

49. Construction Schedule: Prior to start of any construction, Permittee shall submit a construction schedule and monitoring plan for City Engineer review and approval. The construction schedule and monitoring plan shall include, but not be limited to, construction staging area, parking area for the construction workers, personnel parking, temporary construction fencing, and construction information signage and establish a neighborhood hotline to record and respond to neighborhood construction related concerns. Permittee shall coordinate their construction activities with other construction activities in the vicinity of this project. Permittee's contractor is also required to submit updated monthly construction schedules to the City Engineer for the purpose of monitoring construction activities and work progress.

50. Demolition: All utilities shall be properly disconnected before the building can be demolished. Show (state) how the water service(s), sewer service(s) and storm service(s) will be disconnected. The water service shall be locked off in the meter box and disconnected or capped at main line in the street if the water meter is not to be used. The sanitary sewer shall be capped at the clean out near the

property line or approved location if it is not to be used. The storm drain shall be capped off at a manhole or inlet structure or approved location if it is not to be used.

51. Maximum Slopes: All slopes adjacent to public sidewalks and streets shall be designed to a maximum grade of 4:1 slope. The grading design shall also provide a 1' flat bench at the top and bottom of the slope adjacent to the public sidewalks, streets, or pathways.

52. Tree Removal Permit: In accordance with COMC Chapter 2, Title X (Ord. 201), Permittee may be required to obtain a permit for removal of any existing tree(s). Contact the Public Works Department at (408) 586-2600 to obtain the requirements and forms.

53. Underground Service Alert (USA): Permittee shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hrs prior to construction for location of utilities.

54. Mailboxes: Permittee shall obtain information from the US Postal Services regarding required mailboxes. Structures to protect mailboxes may be required as a result of the Building, Engineering and Planning Divisions review.

55. Special Flood Hazard Area: The proposed development is located within the Special Flood Hazard Area (SFHA), and, therefore, shall comply with the National Flood Insurance Program (NFIP) Title 44 of the Code of Federal Regulations and the City of Milpitas (City) Flood Plain Management Regulations, City of Milpitas Code (COMC) Title XI Chapter 15. Prior to final map approval or any building permit issuance, Permittee shall obtain a Conditional Letter of Map Revision (CLOMR) or a Conditional Letter of Map Revision based on Fill (CLOMR-F) from the Federal Emergency Management Agency (FEMA), conditionally approving the revised floodplain or the removal of the development from the SFHA. Permittee shall also obtain a Letter of Map Revision (LOMR) or a Letter of Map Revision based on Fill (LOMR-F) and shall provide all elevation certificates prior to final building inspection or issuance of certificate of occupancy for any portion of the development. The proposed grading plan shall comply with the established BFE as determined in the final flood study report, the approved CLOMR or CLOMR-F, or the official FEMA Federal Insurance Rate Map (FIRM).

56. Floodplain Management Ordinance: Per Chapter 15, Title XI of Milpitas Municipal Code (Ord. No. 209.4) the lowest floor elevation (finished floor) of each structure shall be at least one foot above the Base Flood Elevation (BFE). The structure pad(s) shall be properly designed by a registered civil engineer and compacted to meet FEMA's criterion. In addition, the pad(s) shall extend beyond the building walls before dropping below the base flood elevation, and shall have appropriate protection from erosion and scour. All electrical equipment, mechanical equipment, and utility type equipment servicing the structure shall be located above the BFE, or shall be flood proofed, and shall be constructed to prevent damage from flooding events. Any trailers, modular buildings, or pre-manufactured dwelling units located on this site for periods of time greater than one year, shall be adequately anchored to resist flotation, collapse and lateral movements per Floodplain Management Ordinance. Permittee's civil engineer shall complete and submit several FEMA Elevation Certificates to the City at different stages of the construction. Flood insurance is required for any construction that is financed with government backed loans.

57. Flood Study: Prior to final map approval or any building permit issuance, Permittee shall submit a Flood Study for the project demonstrating, to the satisfaction of the City Engineer, that the proposed development has NO adverse impact to the surrounding flood plain within the SFHA and to flood carrying capacity of the area. The study should include cumulative effects of existing and proposed developments (Integral, DR Horton @ McCandless, Montague/Piper TASP sub-district, and the

BART Project) demonstrating the combined effects will not increase the water surface elevation of the Base Flood (BFE) more than one foot at any point. Additionally, for the AO Flood Zone, the flood study is required to establish the BFE, and set the building elevation accordingly. The flood study shall be consistent with the requirements in accordance with Title 44 of the Code of Federal Regulations by establishing a hydraulic model and HEC-RAS.

58. Drainage Study: Prior to final map approval or any building permit issuance, Permittee shall submit a final grading plan and hydrologic/hydraulic study prepared by a registered Civil Engineer, consistent with the approved CLOMR. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and Permittee shall satisfy the conclusions and recommendations of the approved drainage study.

59. Elevation Certificates: Permittee shall submit an elevation certificate for each lot or structure that is to be removed from the SFHA:

    a. Prior to any grading permit issuance, based on an approved grading plan. This elevation certificate shall contain all proposed grades applicable and shall be required in order to receive community acknowledgement for the CLOMR or CLOMR-F application.
    b. Prior to building foundation pour, based on finished formwork while the building is under construction. If Permittee intends to apply for a LOMR or LOMR-F prior to finished construction, this elevation certificate shall be submitted after the foundation pour and shall be based on existing finished floor and adjacent grades. It shall be required in order to receive community acknowledgement for the LOMR or LOMR-F application.
    c. Prior to occupancy of each building or structure, based on finished construction. This elevation certificate shall contain all required finished grades and shall be based on existing information.
    d. Prior to final occupancy, Permittee shall submit a binder containing all the elevation certificates produced for the each phase of the project.

60. Construction Storm Water Quality: Permittee shall comply with the requirements of the National Pollution Elimination Discharge System (NPDES) permit as administered by the California State Water Resources Control Board (State Board) and the San Francisco Bay Regional Water Quality Control Board (Regional Board). Prior to the issuance of any building, demolition, or grading permit, Permittee shall submit an Erosion and Sediment Control Plan (Erosion Control Plan) as a part of the improvement plan submittal. The erosion control plan shall show all construction best management practices (BMPs) and shall comply with the requirements of the NPDES, the Municipal Regional Permit Order R2-2009-0074 (MRP), and the City's stormwater and urban runoff pollution control standards and guidelines (City's Clean Water Program). Permittee shall ensure that all contractors and sub-contractors install and regularly maintain all construction BMPs as required by the approved erosion control plan, the COMC, and the City's Clean Water Program.

61. Construction General Permit Compliance: Permittee shall comply with the requirements of the Construction General Permit as administered by the State and Regional Boards. Permittee shall obtain a Construction Activities Storm Water General Permit (State Permit) from the State Board. Prior to any construction activities and prior to the issuance of any building, demolition, or grading permit, Permittee shall submit:

    a. a complete Storm Water Pollution Prevention Plan (SWPPP) with the project Waste Discharge Identification Number (WDID) displayed on the cover,
    b. a copy of the approved Notice of Intent (NOI) from the State Board, and

c. an erosion control plan and a site monitoring plan meeting the satisfaction of the City Engineer.

Permittee shall ensure that all contractors and sub-contractors install and regularly maintain all storm water quality control measures as required by the approved SWPPP, the approved erosion control plan, the COMC, and the City's Clean Water Program.

Prior to final occupancy for any unit, Permittee shall submit an approved Notice of Termination (NOT). For phased occupancy, Permittee shall submit a Change of Information (COI) or an NOT approved by the State Board that removes each phase of occupancy from the boundaries of the State Permit prior to the issuance of occupancy for that phase. Contact the State and Regional Boards for questions regarding your specific project. For general information, contact the City of Milpitas Engineering Division at (408) 586-3329.

62. Post-Construction Storm Water Quality: Permittee shall comply with the requirements of the MRP for post-construction storm water treatment (provision C.3 regarding new development and redevelopment requirements for regulated projects) and the City's Clean Water Program. Permittee shall submit a final, certified storm water quality control plan (SWCP), a SWCP sheet, and a post-construction BMP operations and maintenance plan (O&M) in accordance with the City's Clean Water Program and meeting the satisfaction of the City Engineer.

63. Final Storm Water Quality Control Plan (SWCP): Prior to final map approval or any building permit issuance, Permittee shall submit a separate final or amended existing SWCP that incorporates post-construction BMPs for the treatment of storm water run off from all areas of the parcels. The SWCP shall incorporate source control, site design, and storm water treatment consistent with the MRP requirements and the City's Clean Water Program.

    a. The final SWCP shall comply with all "Model Conditions of Approval for Stormwater Quality" as shown in the Stormwater Section of the Engineering Plans and Map Procedures and Guidelines, dated July 15, 2010 and are hereby incorporated as conditions of project approval.
    b. The final SWCP shall be comply with the City's Standard SWCP formatting policy.
    c. The final SWCP shall be certified by a 3rd party reviewer from the MRP approved list of SWCP certifiers.
    d. The final SWCP shall include an Operation and Maintenance (O&M) Plan, acceptable to the City Engineer, describing the operation and maintenance procedures needed to insure that storm water treatment measures continue to work as intended and do not create a nuisance (including vector control). The plan shall include all BMP details, a location map, a maintenance schedule, and inspection and reporting templates. The treatment measures shall be maintained for the life of the project. The storm water control operation and maintenance plan shall include the Permittee's signed statement accepting responsibility for maintenance until the responsibility is legally transferred.
    e. Prior to final occupancy, Permittee shall execute and record an O&M Agreement with the City for the operation, maintenance, and annual inspection of the C.3 treatment facilities. Permittee shall submit documentation of inspection and maintenance to the City's Utility Section annually for reporting to the Regional Board.
    f. Permittee shall include language in the approved CC&R providing the City with an annual inspection report in conformance with the approved O&M plan and agreement. If the City does not receive the report, the City will conduct the field inspection and report for the site and the applicant and its successor shall be responsible to pay all associated costs.

g. All permit applications shall be consistent with the applicant's final Storm Water Control Plan and approved special conditions, and shall include drawings and specifications necessary to implement all measures described in the approved Plan. Onsite improvement plans shall show the details and methods of construction for site design features, pervious pavements, self-retaining areas, treatment BMPs, permanent source control BMPs, and other features that control storm water flow and potential storm water pollutants. Site design shall limit directly connected impervious areas. Any changes to the final Storm Water Control Plan shall require Site & Architectural ("S" Zone) Amendment application review.

h. Storm Water Control Plan Sheet: A plan sheet shall be included in the offsite and onsite improvement plans for Storm Water Control. The sheet will show and label all drainage areas, treatment measures, drainage flow lines, high points, and low points. Each treatment measure shall have an independent drainage area which shall be designated. The sheet will provide sections and details for grading, drainage, and treatment measures. The sheet will include a table correlating the drainage areas to the treatment measures and summarizing the treatment provided.

i. Storm Water Control Inspection: Prior to initial acceptance of public improvements or initial occupancy for private improvements, the 3rd Party Certifier of the SWCP shall submit post-construction certification verifying that the post-construction BMPs have been installed correctly and are functioning properly.

64. Utility Protection: All existing public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep-rooted shrubs are permitted within City utility easements, where the easement is located within landscape areas.

65. Utility Capacity: The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval.

66. Utility Studies: Prior to final map recordation, Permittee shall obtain approval from the City Engineer of the water, sewer, and storm drainage studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable, to the satisfaction of the City Engineer.

67. Utility Modeling: Hydraulic modeling is required to verify the capacity of the adjacent water and sewer system piping and determine points of connection. Permittee shall authorize the City to proceed with hydraulic modeling and the costs of the modeling shall be charged to Applicant's PJ Account.

68. Sanitary Sewer Discharge: Prior to any discharge into the sanitary sewer system, Permittee shall obtain all required industrial wastewater discharge approvals from San Jose/Santa Clara Water Pollution Control Plant (WPCP) by calling WPCP at (408) 277-2755.

69. Landscaping Ordinance 238: In accordance with the provisions of Chapter 5, Title VIII (Ordinance 238) of the COMC for new or rehabilitated landscaping areas equaling 2500 square feet or greater, the applicant shall:

a. Provide separate water meters for domestic water service & irrigation service.
b. Provide separate domestic meters for each proposed use (Residential, Food Services, Commercial/Office).
c. Comply with all the requirements of Ordinance 238.
d. Submit two sets of landscape and irrigation improvement plans to the Building Division with the building permit plan check package. Prior to any building permit issuance, Approval from the Land Development Section of the Engineering Division is required prior to any building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection.

Contact the Land Development Section of the Engineering Division at (408) 586-3329 for information on the submittal requirements and approval process.

70. Solid Waste Handling Plan (Report): Prior to Final Map approval or any building permit issuance, Permittee shall submit a final Solid Waste Handling Plan that incorporates the following solid waste handling requirements and meeting the satisfaction of the City Engineer:

    a. A description of the Solid Waste Services required for the development per the Development Guidelines for Solid Waste Services (Development Guidelines). The description shall include sizing calculations, type of service (front load bins, roll-off compactors, etc.), size of bins, and level of service (e.g. number of pick ups per week).
    b. A description of the Solid Waste Operation at ultimate build out and for each phase of the development.
    c. A detail of the solid waste enclosure designed per the Development Guidelines for Solid Waste Services to house all service described above and all necessary equipment. The enclosure design shall provide adequate access for the solid waste truck, and allocate enough space for the solid waste truck operation without impacting the proposed private street. The access to the location and size of the enclosure shall be designed to the City Engineer's satisfaction and shown on the plans prior to any building permit issuance.
    d. A solid waste handling plan sheet shall be incorporated in the site improvement plan set containing the enclosure detail, a sizing table, a service table, a description of the solid waste operations, and truck turning templates for collection vehicles.
    e. The enclosure drains shall discharge to the sanitary sewer line. Storm drain inlets shall be located at least 25 feet away from enclosures to prevent accidental spills from entering storm drains. Enclosures are not permitted within public utility easements.
    f. The Homeowners Assocation shall be responsible for solid waste handling. The Solid Waste Handling Plan shall include detailed, step-by-step instructions describing the management of solid waste from generation to disposal. The plan shall demonstrate how recycling and waste will be separately handled and maintained.
    g. Permittee shall complete the construction of the new trash enclosure to serve the Project prior to issuance of occupancy for the 53rd unit.

71. Solid Waste Management: Per Chapter 200, Solid Waste Management, V-200-3.10, *General Requirement*, Permittee shall not keep or accumulate, or permit to be kept or accumulated, any solid waste of any kind and is responsible for proper keeping, accumulating and delivery of solid waste. In addition, according to V-200-3.20 *Owner Responsible for Solid Waste, Recyclables, and Yard Waste*, Permittee shall subscribe to and pay for solid waste services rendered. Prior to issuance of any certificate of occupancy, Permittee shall provide evidence to the City that a sufficient level of trash and recycling service has been secured using a Service Agreement with Republic Services (formally BFI). After Permittee has full occupancy, Permittee shall contact the Republic Services commercial

representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, Permittee shall increase the service to the level determined by the evaluation.

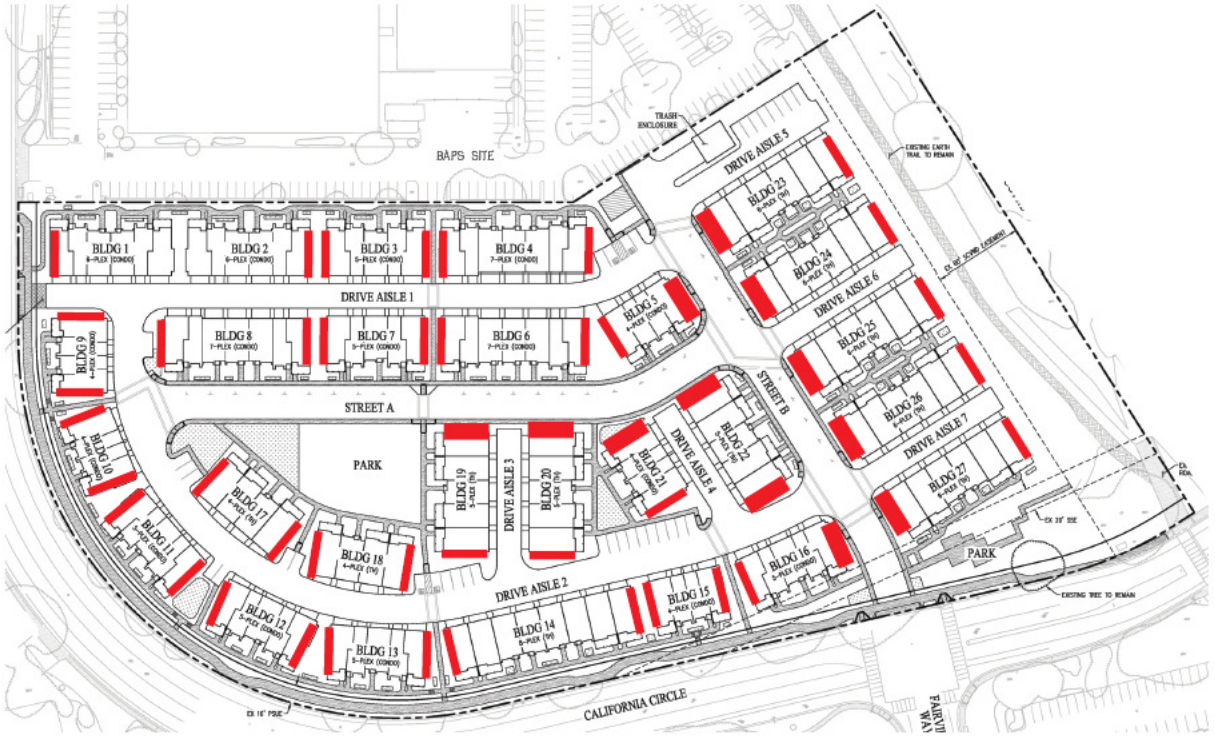
72. Recycling Report, Part I: Prior to any demolition permit issuance, Permittee's contractor shall submit Part I of a Recycling Report on business letterhead to the Building Division, for forwarding to the Engineering Section. This initial report shall be approved by the City's Utility Engineering and Solid Waste Section (Utility Section) prior to demolition permit issuance. The report shall describe the following resource recovery activities:

    a. What materials will be salvaged?
    b. How materials will be processed during demolition?
    c. Intended locations or businesses for reuse or recycling.
    d. Quantity estimates in tons (both recyclable and for landfill disposal). Estimates for recycling and disposal tonnage amounts by material type shall be included as separate items in all reports to the Building Division before demolition begins.

    Permittee's contractor shall make every effort to salvage materials for reuse and recycling.

73. Recycling Report, Part II: Prior to final approval of the demolition permit or any building permit issuance, Permittee shall submit Part II of the Recycling Report to the Building Division for forwarding to the Utility Section in order to confirm the information described on Part I of the Recycling Report, especially materials generated and actual quantities of recycled materials. Part II of the Recycling Report shall be supported by copies of weight tags and receipts of "end dumps." Actual reuse, recycling, and disposal tonnage amounts (and estimates for "end dumps") shall be submitted to the Building Division for approval by the Utility Section prior to inspection by the Building Division.

74. Demolished Material Removal: All demolished materials including, but not limited to, broken concrete, asphalt paving, pipe, vegetation, excess earth, building debris, and other unsuitable materials, etc., shall be removed from the job site for recycling or disposal by Permittee's contractor, to the satisfaction of the City Engineer. Permittee's contractor shall, to the maximum extent possible, reuse any useful construction materials generated during the demolition and construction of the site. Permittee's contractor shall recycle all building and paving materials including, but not limited to roofing materials, wood, drywall, metals, and miscellaneous and composite materials, aggregate base material, asphalt, and concrete. Permittee's contractor shall perform all recycling and/or disposal by removal from the job site.




A Highest priority side elevations:
*Provide facade enhancements equal to entry facades including unit entries, facade articulation, materials changes, color changes, architectural details, landscaping, and where possible, wrap-around porches and balconies. (See example photos)*

B Other side elevations:
*Provide substantial facade enhancements including facade articulation, architectural details, materials changes, and landscaping. (See example photos)*

**Building Side Elevations**
**Conditions of Approval**
**1210 CALIFORNIA CIRCLE**

**EXHIBIT 1.a**
**TO CONDITIONS OF APPROVAL**

**A**

Highest priority side elevations:

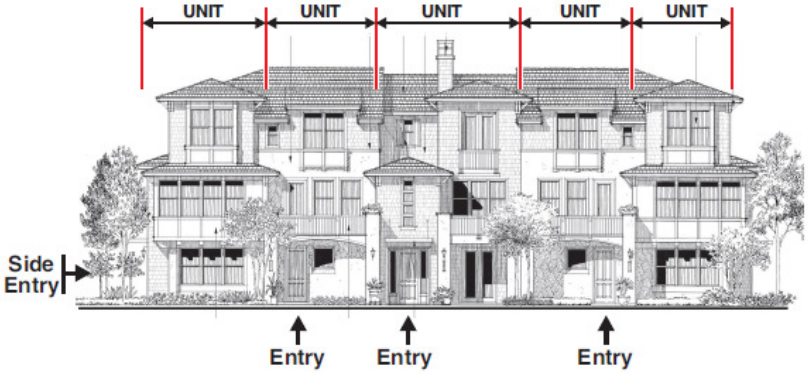
*Unit entries*
*Facade articulation*
*Materials changes*
*Color changes*
*Architectural details*
*Landscaping*
*Wrap-around porches & balconies*

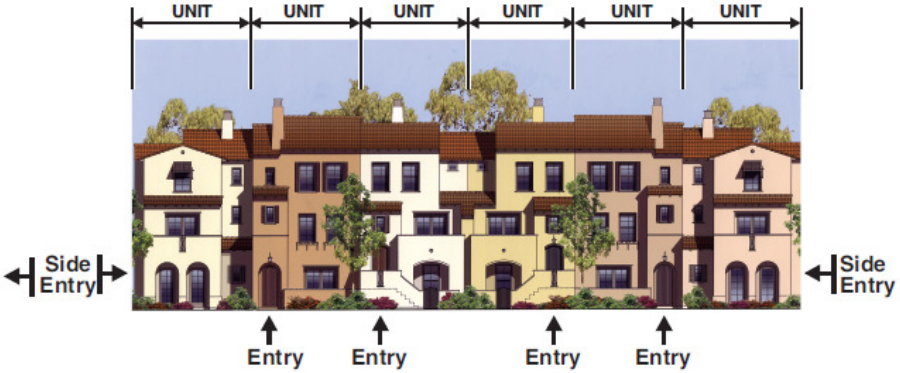
**B**

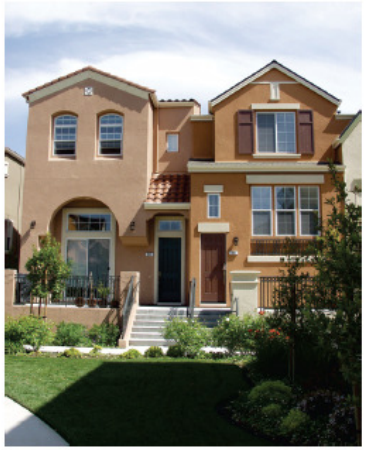
Other side elevations:

*Facade articulation*
*Materials changes*
*Color changes*
*Architectural details*
*Landscaping*

**EXAMPLES**
**Building Side Elevations**
**Conditions of Approval**
**1210 CALIFORNIA CIRCLE**



**DESIGN PRINCIPLES**

1. Provide individualized units with varied materials and form articulation assembled into a unified building whole.
2. Provide distinctive and varied unit entries.
3. Provide varied roof eave lines.
4. Provide abundant projecting architectural details.
5. Provide variety in facade treatment for adjacent buildings. (Side by side and across auto courts and pedestrian areas)

**Architectural Form and Articulation**
**Conditions of Approval**
**1210 CALIFORNIA CIRCLE**

**EXHIBIT 1.b**
**TO CONDITIONS OF APPROVAL**

## POTENTIALLY SIGNIFICANT IMPACTS REQUIRING MITIGATION

The following is a list of potential Project impacts and the mitigation measures recommended to reduce these impacts to a less than significant level. Refer to the Initial Study Checklist section of this document for a more detailed discussion.

| Potential Impact: | Mitigation Measures | Resulting Level of Significance |
|---|---|---|
| **Aesthetics-4**: The Project could create a new source of substantial light or glare which would adversely affect day or nighttime views in the area | | |
| | **Mitigation Aesthetics-4: Standard Lighting Design Requirements.** The Project would undergo architectural and site design review by Planning staff prior to issuance of building permits to ensure that the Project would not adversely affect the visual quality of the area or create a substantial new source of light or glare for residences to the north or east. Typical design requirements include directional and/or shielded lights to minimize the brightness and or glare of the lights on light sensitive uses including the creek and nearby residences. City review would ensure that lighting would not adversely affect the visual quality of the area or create a substantial new source of light or glare for the creek, nearby residences, or for cars traveling on I-880 | LTS |
| **Air Quality-2A**: The Project could result in air quality and fugitive dust-related impacts associated with grading and new construction, but these impacts would be reduced with implementation of Best Management Practices as required of all projects. | | |
| | **Mitigation Measure Air Quality-2A: Measures to Control Dust Emissions.** The contractor shall implement the following Best Management Practices that are required of all projects:<br>1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.<br>2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.<br>3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.<br>4. All vehicle speeds on unpaved roads shall be limited to 15 mph.<br>5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible and feasible. Building pads shall be laid as soon as possible and feasible, as well, after grading unless seeding or soil binders are used.<br>6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 | LTS |

| Potential Impact: | Mitigation Measures | Resulting Level of Significance |
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| | minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.<br>7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.<br>8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. | |
| **Air Quality-4:** During construction of the Project, construction-period diesel exhaust could pose both a potential health and nuisance impact to nearby receptors, but this effect would be reduced through implementation of recommended mitigation measures. | | |
| | **Mitigation Measure Air Quality-4:** Selection of equipment during construction to minimize emissions. Such equipment selection would include the following:<br>1. All diesel-powered off-road equipment larger than 50 horsepower and operating at the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent; and<br>2. Minimize the number of hours that equipment will operate, including the use of idling restrictions. | LTS |
| **Biology-1**: The Project would not adversely affect special status plants, but could have a substantial adverse effect, either directly or through habitat modifications, on animal species identified as a candidate, sensitive, or special status species. These effects would be reduced through implementation of mitigation measures recommended for the Project | | |
| | **Mitigation Measure Biology-1A:** The Project shall implement the following avoidance, minimization, and compensation measures prior to and during construction of the Project:<br>1. Prior to the start of construction, a qualified biologist should train all construction personnel regarding habitat sensitivity, identification of special status species, and required practices.<br>2. Pre-construction surveys should be conducted to ensure that western pond turtles (WPT) and nesting birds are absent from the construction area. If an active bird nest is observed, then an appropriate construction-free buffer will be established by a qualified biologist. If WPT are present, a qualified biologist possessing all necessary permits should relocate them. | LTS |

| Potential Impact: | Mitigation Measures | Resulting Level of Significance |
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| | 3. Silt fencing and appropriate erosion control shall be in place separating the riparian system in Lower Penitencia Creek from the area impacted by construction prior to construction activities. This silt fencing may act as a barrier to keep WPT from entering the area of construction, and will ensure that the creek is not adversely affected by addition of silt/sediment into the creek during construction. | |
| | **Mitigation Measure Biology-1B: Pre-construction Nesting Bird Surveys.** To the maximum extent practicable, any trees planned for removal should be removed during the non-breeding season (September 1 through January 31).<br><br>1. If it is not possible to avoid tree removal or other disturbances during the breeding season (February 1 through August 31), a qualified biologist should conduct a pre-construction survey for tree-nesting raptors and other tree- or ground-nesting migratory birds in all trees or other areas of potential nesting habitat within the construction footprint and within 250 ft. of the footprint, if such disturbance will occur during the breeding season. This survey should be conducted no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August).<br>2. If nesting raptors or migratory birds are detected on the site during the survey, a suitable construction-free buffer should be established around all active nests. The precise dimension of the buffer (up to 250 feet) would be determined at that time and may vary depending on location and species. Buffers should remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents.<br>3. Pre-construction surveys during the non-breeding season are not necessary, as the birds are expected to abandon their roosts during construction activities. | LTS |
| | **Mitigation Measure Biology-1C**. Mitigation for potential impacts to the Western Burrowing Owl shall include the following measures:<br>1. In order to avoid impacts to active burrowing owl nests, a qualified biologist should conduct pre-construction surveys for burrowing owls within the construction footprint and within 250 feet of the footprint no more than 30 days prior to the onset of ground disturbance. These surveys should be conducted in a manner consistent with accepted burrowing owl survey protocols. If pre-construction surveys determine that burrowing owls occupy the site during the non-breeding season (September 1 | LTS |

| Potential Impact: | Mitigation Measures | Resulting Level of Significance |
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| | through January 31), then a passive relocation effort (e.g., blocking burrows with one-way doors and leaving them in place for a minimum of three days) may be necessary to ensure that the owls are not harmed or injured during construction. Once it has been determined that owls have vacated the site, the burrows can be collapsed, and ground disturbance can proceed.<br>2. If burrowing owls are detected within the construction footprint or immediately adjacent lands (i.e., within 250 feet of the footprint) during the breeding season (February 1 through August 31), a construction-free buffer of 250 feet should be established around all active owl nests. The buffer area should be enclosed with temporary fencing, and construction equipment and workers should not enter the enclosed setback areas. Buffers should remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. After the breeding season, passive relocation of any remaining owls by a qualified biologist may take place. | |
| **Biology-5**: With implementation of required compliance with City of Milpitas mitigation requirements for protected trees, the Project will not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. Compliance with the Tree Ordinance would reduce potential impacts to a less-than-significant level. | | |
| | **Mitigation Biology-5: Tree Replacement.** Any trees removed for the Project that meet the protected tree criteria of the Municipal Code shall require appropriate tree replacement compensation as determined by the City, including conditions of approval regarding number of replacement trees, species type and size. | LTS |
| **Cultural-2**: The Project is not expected to cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5 or disturb any human remains, including those interred outside of formal cemeteries, but mitigation measures would reduce impacts related to the unlikely event that subsurface artifacts are uncovered during grading activities. | | |
| | **Mitigation Measure Cultural-2A.** In the event that prehistoric or historic resources are encountered during excavation and/or grading, all activity within a 50-foot radius of the find will be stopped, the Director of Planning and Neighborhood Services will be notified, and a qualified archaeologist will examine the find and make appropriate recommendations prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery during monitoring would be submitted to the Director of Planning and Neighborhood Services. | LTS |
| | **Mitigation Measure Cultural-2B.** In the event that human remains | LTS |

| Potential Impact: | Mitigation Measures | Resulting Level of Significance |
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| | are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find will be stopped. The Santa Clara County Coroner will be notified and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines. | |
| **Geology-2:** The Project, similar to other development throughout the San Francisco Bay region, could expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death related to strong ground shaking, but this effect is reduced to levels considered less than significant through implementation of standard mitigation as found in the California Building Code requirements. | | |
| | **Mitigation Geology-2: California Building Code Requirements.** To mitigate ground shaking effects, all structures should be designed using sound engineering judgment and the latest California Building Code (CBC) requirements as a minimum. Seismic design provisions of current building codes generally prescribe minimum lateral forces, applied statically to the structure, combined with the gravity forces of dead and live loads. The code-prescribed lateral forces are generally substantially smaller than the expected peak forces that would be associated with a major earthquake. Therefore, structures should be able to:<br>1. resist minor earthquakes without damage,<br>2. resist moderate earthquakes without structural damage but with some nonstructural damage, and<br>3. resist major earthquakes without collapse but with some structural as well as nonstructural damage. | LTS |
| **Geology-3:** The Project could expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death related to liquefaction, but this effect is reduced to levels considered less than significant through implementation of recommended engineering requirements for building construction. | | |
| | **Mitigation Measure Geology-3: Foundation Design**. The foundation designs for new Project buildings shall conform to the foundation options and recommendations of the Project's Geotechnical Engineer, as found necessary to mitigate liquefaction hazards and reduce the risk of damage during a major earthquake. Based on preliminary recommendations (ENGEO, 2014), post-tensioned mat foundations are recommended, capable of preventing collapse or the loss of life but not fully preventing risk of structural and non-structural damage as a result of a major earthquake. If the | LTS |

| Potential Impact: | Mitigation Measures | Resulting Level of Significance |
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| | preliminary design recommendations of ENGEO 2014 cannot be achieved by the Project's Structural Engineer, alternative recommendations and foundation options may be considered, providing such alternatives are found consistent with California Building Code requirements. Assuming post-tension mat foundations, the following technical recommendations shall be addressed in final foundation designs:<br>1. The foundation design should consider 1-inch total load-induced settlement subsequent to completion of surcharge operations (see Mitigation Geo-4, below). A differential value of ½ inch may be considered and should be assumed to act between adjacent column supports or over a 30-foot distance.<br>2. Post-tensioned mats should be designed for an average allowable soil pressure of 1,200 pounds per square foot for dead-plus-live loads, with maximum localized bearing pressures of 1,500 pounds per square foot for concentrated loads. Allowable bearing pressures can be increased by one-third when considering total loads, including wind or seismic loads. The actual thickness of the mat foundation should be determined by the project Structural Engineer based on structural calculations.<br>3. The subgrade material under structural mat foundations should be uniform. The pad subgrade should be moisture conditioned to a moisture content of at least 2 percentage points above optimum. The subgrade should be thoroughly soaked and approved by the Geotechnical Engineer prior to placing the reinforcement or tendons. The subgrade should not be allowed to dry prior to concrete placement.<br>4. A tough, water vapor retarding membrane should be installed below the slab to reduce moisture condensation under floor coverings. The vapor retarder should meet ASTM E 1745 – 97 Class A requirements for water vapor permeance, tensile strength, and puncture resistance. Vapor transmission through the mat foundations can also be reduced by using high strength concrete with a low water-cement ratio. | |
| **Geology-4:** The Project is located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), potentially creating substantial risks to life or property. This effect is reduced to levels considered less than significant through implementation of recommended engineering requirements for building construction. | | |
| | **Mitigation Measure Geology-4A: Surcharge Program**. To reduce post-construction consolidation settlements, a surcharge program to "pre-consolidate" the soft clay deposits prior to site development may be used. A surcharge program would involve the placement of temporary fills, uniformly blanketing the western portion of the site until the desired degree of consolidation in these areas has occurred, as determined by a site-specific settlement-monitoring program. | LTS |

| Potential Impact: | Mitigation Measures | Resulting Level of Significance |
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| | Based on field exploration to date, the estimated minimum surcharge area is shown on Figure 16.<br>1. Surcharge fill should be uniformly placed over areas where structures or raised grades are planned to adequately drive consolidation of the highly compressible soft clay. The surcharge fill area, grades and extent, should be determined by a geotechnical engineer depending on surcharge period, building loads, and surcharge materials. It is anticipated that a surcharge program with a surcharge height of at least 6 feet (assuming average unit weight of surcharge material is 120 pounds per cubic foot) above final grade elevations.<br>2. Surcharge fill should remain in place for a period of time determined to be sufficient to allow the desired degree of consolidation to be achieved, so that the risk of settlement is sufficiently reduced for the planned development. Depending on the construction schedule, implementation of a surcharge program may be accelerated by installing wick drains, which allow rapid pore pressure dissipation. Variable surcharge heights and wick drain spacing combinations are possible and may be feasible depending on specifics of loads and project timelines. Foundation designs should consider up to 1 inch of residual static-settlement.<br>3. If desired, the use of lightweight fill may be considered to reduce surcharge height, or existing fill on the site could be excavated and used as temporary surcharge fill.<br>4. Following surcharge removal, residual settlement of the soft clay is estimated to be small and structures supported on shallow foundations, such as post-tensioned mat foundations, should be designed to withstand the estimated post-construction differential settlement.<br>5. Where utilities are installed within the soft clay layer, the weight of the utility backfill will be heavier than the soft clayey deposits removed, resulting in undesirable potential settlement of the utility pipeline. For this case, the use of special "lightweight fill" should be considered to reduce additional loading on the compressible deposits. Recommendations for underground utilities are provided in a subsequent section. | |
| | **Mitigation Measure Geology-4B: Fill Removal and Re-compaction.** Treatment of existing or undocumented fills typically includes removal and re-compaction of soil deemed suitable for reuse. Where encountered, existing fill, utility trench backfill, and existing foundation backfill are considered undocumented and should be sub-excavated to expose underlying competent native soils that are approved by the Geotechnical Engineer. If in a fill area, the base of the excavations should be processed, moisture conditioned, | LTS |

| Potential Impact: | Mitigation Measures | Resulting Level of Significance |
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| | as needed, and compacted in accordance with the recommendations for engineered fill.<br>1. Depending upon cuts associated with removal of foundations or undocumented fills, differential fill thickness conditions could possibly arise. For sub-excavation activities that create a differential fill thickness across a building footprint, mitigation to achieve a similar fill thickness across the pad is beneficial for the performance of a shallow foundation system. It is recommend that a differential fill thickness of up to 5 feet is acceptable across the building footprint.<br>2. To improve foundation performance for the planned structures and to mitigate the risk of liquefaction-induced surface rupture (sand boils), we recommend near-surface soils comprise uniform fill of at least 3 feet and underlain by a woven geotextile fabric (Mirafi 500X or approved equivalent). Recommendations regarding placement depths of geotextile fabric should be re-addressed once land plans are available and may be modified during grading activities depending on groundwater levels.<br>3. Once a suitable firm base is exposed, the exposed non-yielding native surface should be scarified to a depth of 10 inches, moisture conditioned, and re-compacted to provide adequate bonding with the initial lift of fill. All fills should be placed in thin lifts, with the lift thickness not to exceed 10 inches or the depth of penetration of the compaction equipment used, whichever is less.<br>4. In general, graded slopes should be no steeper than 2:1 (horizontal: vertical). All fill slopes should be adequately keyed into firm materials unaffected by shrinkage cracks. If a cut or cut-fill transition occurs within a graded slope, it should be over-excavated and reconstructed as an engineered fill slope. | |
| **Geology-5:** The Project is located on a geologic unit or soil that is unstable or that could become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. This effect is reduced to levels considered less than significant through implementation of recommended engineering requirements for building construction. | | |
| | **Mitigation Measure Geology-5A: Lower Penitencia Creek Bank Setback.** Implement the Engineering Geologist's recommendation for a minimum setback distance of 40 feet from the top of the existing creek bank for structures, and a minimum setback distance of 30 feet from the top of the existing creek bank for other development related site improvements (i.e. pavements, sidewalks, and utilities).<br>1. If structures or site improvements are planned within the recommended setbacks, additional remedial grading mitigation | LTS |

| Potential Impact: | Mitigation Measures | Resulting Level of Significance |
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| | measures may be necessary (i.e. below-grade retention systems, shear keyway, etc.) that extend to adequate depths to provide adequate stability considering the adjacent creek.<br>2. As part of more detailed grading plan review, the remedial grading and any other recommended measures may be outlined, as necessary. | |
| **Hazards-2:** The Project could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment, but such an accident would be reduced to less than significant level with implementation of mitigation measures requiring conformance with asbestos and lead-based paint regulations. | | |
| | **Mitigation Measure Hazards-2:** The Applicant shall retain Cal-OSHA certified ACBM and lead-based paint specialists to assess the structure for the presence of these hazardous materials prior to the start of demolition work. Hazard abatement or removal and disposal of hazardous materials, if any are found, shall comply with applicable regulations. | LTS |
| **Hydrology-2:** The Project could result in a violation of water quality standards or waste discharge requirements, or otherwise substantially degrade water quality, but this impact would be reduced through required implementation of construction-period and post construction water quality mitigation measures. | | |
| | **Mitigation Measure Hydrology-2A: NPDES General Permit for Construction.** As a condition of Project approval and prior to start of grading or other construction activities, the Project applicant shall file a Notice of Intent (NOI) with the RWQCB for compliance with the NPDES General Construction Permit. Pursuant to that permit, the Project will be required to implement management practices of the RWQCB during all phases of construction, including but not limited to the following:<br>1. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.<br>2. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.<br>3. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.<br>4. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.<br>5. All trucks hauling soil, sand, and other loose materials shall be covered or shall maintain at least two feet of freeboard.<br>6. All paved access roads, parking areas, staging areas and streets adjacent to the construction site shall be swept daily (with water sweepers).<br>7. Vegetation in disturbed areas shall be replanted as quickly as | LTS |

| Potential Impact: | Mitigation Measures | Resulting Level of Significance |
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| | possible.<br>8. All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed if requested by the City. | |
| | **Mitigation Measure Hydrology-2B: Compliance with SWPPP**. The Project proponent shall prepare and file a draft Stormwater Pollution Prevention Plan (SWPPP) that addresses measures to minimize and control construction runoff. A copy of the draft SWPPP will be submitted to the City of Milpitas for review and approval prior to start of construction. When approved, the certified SWPPP will be posted at the Project site and will be updated to reflect current site conditions. | LTS |
| | **Mitigation Measure Hydrology-2C: NPDES C.3 Requirements – Stormwater Control Plan**. Pursuant to the San Francisco Bay RWQCB's Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP), the Project applicants shall be required to design, construct and operate stormwater treatment controls to treat post-construction stormwater runoff. These controls shall be sized, designed, implemented and operated in accordance with the Provision C.3 requirements of the regional permit, and the technical requirements of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) C.3 Stormwater Handbook, dated April 2012. | LTS |
| | **Mitigation Measure Hydrology-2D: NPDES Best Management Practices**. The following measures, based on the RWQCB Best Management Practices (BMPs) and the City requirements, are required of the Project to ensure compliance with NPDES permit requirements for post-construction operations to reduce water quality impacts.<br>1. When the construction phase is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the RWQCB and the City of Milpitas. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the project site.<br>2. All post-construction Treatment Control Measures (TCMs) will be installed, operated, and maintained by qualified personnel. On-site inlets will be cleaned out at a minimum of once per year, prior to the wet season.<br>3. The property owner/home owner's association will keep a maintenance and inspection schedule and record to ensure the TCMs continue to operate effectively for the life of the project. Copies of the schedule and record must be provided to the City | LTS |

| Potential Impact: | Mitigation Measures | Resulting Level of Significance |
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| | upon request and must be made available for inspection on-site at all times.<br>4. The residential homeowner's association will ensure through the CC&R's that the bio-retention/treatment areas are maintained as designed for the useful life of the project and preclude homeowners from landscaping or other improvements which might diminish the functionality of the system. | |
| **Hydrology-4**: The Project site is located within a 100-year flood hazard zone and would place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map. This impact would be reduced through implementation of the Project's proposed mitigation to raise the base elevation of the site above the flood level. | | |
| | **Mitigation Measure Hydrology-4: Raising the Base Elevation**. To reduce the risk of flood hazards to acceptable levels and to comply with current flood hazard regulations, the proposed Project will raise the base elevation of the Project site by approximately three feet, such that final on-site grades will be at or above 15 feet NAVD, and therefore the Project site will be at an elevation above the floodplain. Furthermore, the Project's finish floor elevations will be at minimum elevation of 16 feet NAVD or higher to meet the City of Milpitas Flood Ordinance requirements that finish floor elevations be at least one foot above the FEMA base flood elevation. | LTS |
| **Hydrology-5**: The Project site is not subject to inundation by seiche, tsunami or mudflow, but could expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam. However, this impact would be reduced through implementation of the Project's proposed mitigation to raise the base elevation of the site. | | |
| | **Mitigation Measure Hydrology-5A: Raising the Base Elevation** (see detailed discussion of MM Hydro-4, above) | LTS |
| | **Mitigation Measure Hydrology-5B: Removal of Non-Permitted Improvements on the Levee.** Certain existing tees, irrigation, lighting and stairs observed on the existing levee appear to have been installed without a District permit, and shall be removed so as not to adversely affect the levee structure. | LTS |
| **Hydrology 6**: The Project would place structures and fill within a 100-year flood hazard area that could have the potential to affect the flood elevations in the area or upstream, or redirect flood flows. This impact would be reduced through implementation of mitigation pursuant to Milpitas Floodplain Management Regulations that require no increase in the base flood elevation during the occurrence of the base flood discharge. | | |
| | **Mitigation Measure Hydrology-6: Flood Plain Analysis**. Prior to approval of a grading plan for the Project, a flood plain analysis shall be prepared to delineate the post-development flood plain depth and lateral extent. | LTS |

| Potential Impact: | Mitigation Measures | Resulting Level of Significance |
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| | 1. The flood plain analysis shall be certified by a registered professional engineer or architect, and submitted to the City for review and approval, and the Santa Clara Valley Water District for review.<br>2. The analysis shall demonstrate that the Project will not increase the 100 year water surface elevation on surrounding properties, nor shall it increase the lateral extent of flooding.<br>3. The analysis shall also demonstrate that cumulative impacts to the base flood elevation, taking into consideration all nearby development, will be less than one foot.<br>4. To the extent necessary to achieve the performance standards identified above, site improvements (grades, roadways, buildings, etc.,) shall be designed to allow for the passage and storage of flood water within the site. | |
| **Noise-1**: The Project could expose persons to, or generate noise levels in excess of standards established in the Milpitas General Plan or noise ordinance, but mitigation measures recommended for the Project would reduce this impact to a less than significant level. | | |
| | **Mitigation Measure Noise-1A**. **Require an Acoustical Engineer to Design and Specify Appropriate Noise Attenuation Measures.** Prior to approval of building permits, a qualified acoustical consultant shall review final designs for floor plans and exterior elevations for construction to calculate expected interior noise levels as required by City policies and State noise regulations. The design must be able to assure that interior noise levels will be 45 dBA or lower. It is expected that window and door assemblies will be required to a meet sound transmission class (STC) rating of class 32 or greater for all rooms facing California Circle, and STC 28 for windows and exterior doors in all other locations to assure indoor noise levels at DNL 45 dB or lower.<br>1. The acoustical consultant shall identify and include on the plans and specifications for the Project the specific noise insulation treatments (i.e., sound rated windows and doors, sound rated wall construction, acoustical caulking, protected ventilation openings, etc.) that are to be applied throughout the Project.<br>2. The designs and specifications of the acoustical consultant shall be submitted to the City as part of the construction documents submitted for building permits and shall be reviewed and approved by the City prior to issuance of building permits.<br>3. All noise insulation treatments identified during review of the final plans will be incorporated into the proposed project. | LTS |
| | **Mitigation Measure Noise-1B. Require Mechanical Ventilation.** Since windows of residences will need to be closed to meet the | LTS |

| Potential Impact: | Mitigation Measures | Resulting Level of Significance |
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| | interior DNL 45 dB criterion, all houses shall be equipped with mechanical ventilation systems. Such systems shall be designed by the project mechanical engineer and shall utilize equipment that does not compromise sound insulation of the exterior assemblies. | |
| **Noise-4**: The Project's construction activity would result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project, but this impact would be reduced to less than significant levels with implementation of required construction noise mitigation measures. | | |
| | **Mitigation Measure Noise-4**. The Project will be required to implement the following noise control measures and comply with Chapter 213 (Noise Abatement) of the City's Municipal Code which regulates construction noise within the City:<br>1. Construction and demolition activities shall be limited to the period between 7:00 AM and 6:00 PM Monday through Friday and 9:00 AM to 6:00 PM on Saturdays. No construction or demolition activities are permitted on Sundays or holidays.<br>2. Construction crews will be required to use available noise suppression devices and properly maintain and muffle internal combustion engine-driven construction equipment.<br>3. The applicant shall designate a disturbance coordinator and post the name and phone number of this person at easy reference points for the surrounding land uses. The disturbance coordinator shall respond to and address all complaints about noise. | LTS |
| **Services-1**: The Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any public services. | | |
| | **Mitigation Measure Services-1A: School Impact Fees**. The Project shall be responsible for payment of required school impact fees. | LTS |
| | **Mitigation Measure Services-1B:** To conform to the City's park and recreation ordinance (Subdivision Ordinance, section 9), the Project shall dedicate additional public parkland, or pay applicable in-lieu fees, as outlined in the Municipal Code. | LTS |
| **Transportation-2:** The Project would not conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the County Congestion Management Agency for designated roads or highways. | | |
| | **Mitigation Measure Transportation-2: Calaveras Boulevard Widening Project TIF.** The Project shall pay its fair share toward the Calaveras Boulevard Widening project through payment of the City-established Calaveras Boulevard Widening project Traffic | LTS |

| Potential Impact: | Mitigation Measures | Resulting Level of Significance |
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| | Impact Fee (TIF). | |
| **Transportation-4:** The Project would not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses. | | |
| | **Recommendation Transportation-4A: Eastbound Left Turn Pocket.** Install an eastbound left-turn pocket into the proposed site driveway at the intersection of California Circle and Fairview Way. This can be accomplished within the existing right-of-way, and would entail restriping and implementing minor modifications to the existing two-way center turn lane on the west leg of the intersection.<br><br>The existing cross-section of California Circle immediately west of the intersection at Fairview Way and the Project driveway is approximately 65 feet wide with a westbound bike lane, two westbound through lanes, a two-way center turn lane, one eastbound through lane, one eastbound right-turn lane, and an eastbound bike lane. The width of California Circle is therefore sufficient to permit restriping of the existing two-way center turn lane to accommodate a left-turn pocket on eastbound California Circle into the project driveway.<br><br>There is a distance of a little more than 200 feet on California Circle between Fairview Way and a driveway into a property on the southwest quadrant of the intersection. From the existing two-way center turn lane, vehicles are able to turn into that driveway. The distance of 200 feet should be sufficient to accommodate back-to-back eastbound and westbound left-turn pockets of 100 feet each (including taper) for the left-turn movements into the Project driveway and into the adjacent property's driveway, respectively.<br><br>**Recommendation Transportation-4B: Centered Driveway Alignment.** The Project site driveway onto California Circle shall be centered at the intersection of California Circle and Fairview Way, with a clear definition of proper vehicle path to minimize confusion for the public.<br>1. The Project should provide a crosswalk and ADA-compliant ramps across its driveway, so that there are crosswalks across all four approaches of the California Circle and Fairview Way intersection.<br><br>**Recommendation Transportation-4C: Provide Bike Racks.** The project should provide bike racks in accordance with VTA requirements. Bike parking spaces are not shown on the current plans. These should be placed in accessible, secure, and well-lit locations.<br><br>**Recommendation Transportation-4D:** It is recommended that the City of Milpitas coordinate with VTA to explore the possibility of installing bus stops closer to the project site. | LTS |

**EXHIBIT 1.c**
**TO CONDITIONS OF APPROVAL**
**Gateway Signage Program Scope**

**City of Milpitas Community Gateway Signage Program**
*Scope of Work*

## Phase I. Planning

A. Analysis of project requirements:
1. Kick off meeting with City Staff.
2. Stakeholders meeting with Chamber, etc.
3. Data collection:
    a. Existing signage types and locations.
    b. Gateway conditions.
    c. Existing city branding materials.
4. Conduct City image audit.
5. Prepare branding recommendations.

B. Programming:
1. Determine required sign categories and types.
2. Layout preliminary location map.

## Phase II. Schematic Design

A. Prepare branding refinements based upon image audit recommendations.

B. Develop concepts for integrated system of sign types and graphic elements:
1. Typographic concept, graphic elements.
2. Sign size, colors, materials, siting.

C. Meet with City Staff to review concepts.

D. Incorporate revisions prior to further review.

E. Schematic Design Presentations:
1. Community Advisory Commission
2. Economic Development Commission
3. Planning Commission
4. Parks, Recreation & Cultural Resources Commission

## Phase III. Design Refinement

A. Final Design:
1. Specify final colors, materials and sizes for each sign type.
2. Finalize letterforms and graphic elements

B. Prepare revised location map with sign type key.

C. Meet with City Staff prior to further review.

D. Presentation of refined concepts:
1. Community Advisory Commission
2. Economic Development Commission
3. Planning Commission
4. Parks, Recreation & Cultural Resources Commission

E. Final refinements and response to comments.

F. City Council Presentation.

G. Preparation of final designs and implementation guidelines as per Council direction.

## Phase IV. Fabrication and Construction

Scope of work to be determined after approval of final designs.